

**From:** Mark  
**To:** Microsoft ATR  
**Date:** 1/25/02 7:21pm  
**Subject:** Microsoft Settlement

The proposed settlement has many flaws and is not in the public interest. More needs to be done, as many DoJ people apparently believe; I will pick one key issue.

Creation of an environment where viable alternatives to Microsoft's dominance in desktop operating systems flourish, and where competition in the variety of related monopolies that have arisen and will arise from that dominance is allowed and feasible, requires, in a fast-paced technology environment, both speed and pragmatism.

Speed requires that the eventual actions required of Microsoft should be carried out fully and in a timely manner - the definition of timely to be decided, and compliance to it to be monitored, by the court or the DoJ or other appropriate body, advised by industry.

Pragmatism requires recognising the critical relief that should be provided to non-Microsoft innovators to "level the playing field" - that is, to publish fully all the APIs and file formats used by Microsoft itself, past, present, and, where relevant, future - relevance, to be determined, again, by the court or the DoJ or other appropriate body.

It is ingenuous to suppose that Microsoft can be trusted to act fully and completely in accordance with whatever final settlement is reached, and in particular with these two aspects - hence the need for active and appropriate compliance monitoring.

Windows, Codeweavers WINE, and numerous other innovations will - given these actions - produce in the relatively short term a non-Microsoft desktop operating system that will run Microsoft and other applications software. There will then, and only then, be an environment in which real competition exists.